

REMARKS

Oath and Declaration

Applicants submitted a corrected Declaration and Power of Attorney on February 2, 2002. For the convenience of the Office applicants have included in Appendix B a copy of the filed Declaration and proof that the Office received the Declaration on February 8, 2002 which is the date the PCT Branch determined that applicants met all requirements under 35 U.S.C. 371.

Correction of Drawings

Applicants have included a corrected Figure 2 for approval by Examiner Tentoni and which meets all requirements under 37 CFR 1.84. Substitute drawing is in Appendix C.

Rejection of Claims

Claims 1-3, 5, 9, 13 and 14 were rejected under 35 U.S.C. §102(a) as being anticipated by Vorbach, et al. Properties of carbon filed cellulose filaments. Applicants traverse this rejection.

Applicants have included herewith a Declaration by Dr. Vorbach (Appendix A) executed by Dr. Vorbach stating that he is a co-inventor of the presently claimed invention and also co-author of the cited publication describing the present inventors' work. Dr Vorbach states that Dr. Schulze was not physically in the lab when the article was written and reviewed. However, the article and the current application include research data from all three inventors. Thus, Thomas Schulze was properly included as a co-inventor of the present invention.

According to the Board of Patent Appeal and Interferences (BPAI) in *In re Magner*¹, the enclosed declaration is sufficient to explain the situation relating to the authorship of the cited publication and the fact that the publication is authored by two of the three inventors that are named in the presently filed application. The presently enclosed declaration provides competent evidence to convince the Office as to why the Vorbach, et al. publication names only Dr. Vorbach and Dr. Taeger and why the additional inventor was named as a co-inventor on the application. Further, there is no reason to doubt the statement of Dr. Vorbach as to the inclusion of Dr. Schulze as the

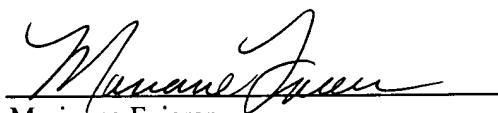
¹ *In re Magner, Long, Ellis and Grinstead*, 133 USPQ 404 (BPAI 1962)

additional inventor because there is no benefit to the other two inventors. Applicants submit that the enclosed declaration is sufficient to remove the cited publication under 35 USC 102(a).

Conclusion

The pending claims, as now amended, patentably distinguish over the prior art, and in view of the forgoing remarks, it is respectfully requested that all rejections be withdrawn thereby placing the application in condition for allowance. Notice of the same is earnestly solicited. In the event that any issues remain, Examiner Tentoni is requested to contact the undersigned attorney at (919) 419-9350 to resolve same.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Marianne Fuierer", is written over a horizontal line.

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